

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

CrI.MC.No. 6911 of 2014 ()

**IN SC 52/2013 of ADDL. D.C. & SESSIONS COURT - III, KASARAGOD
CRIME NO. 1462/2011 OF HOSDURG POLICE STATION , KASARAGOD**

PETITIONER(S)/ACCUSED 1 - 7:

1. **ANDA @ ABDULLA**
S/O. ABDUL RAHIMAN HAJI, RESIDING AT THAYAL HOUSE
MUKOOD, CHITTARI VILLAGE, KASARAGOD DISTRICT.
2. **ALI.K.M**
S/O. MUHAMMED, RESIDING AT KARAYIL HOUSE, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.
3. **FAIZAL C.R, AGED 32 YEARS**
S/O. IBRAHIM, RESIDING AT FAIZAL MANZIL, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.
4. **SHAUKATH C.K. AGED 27 YEARS**
S/O. IBRAHIM, RESIDING AT FAIZAL MANZIL, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.
5. **ABDUL KAREEM @ KAREEM, AGED 27 YEARS**
S/O. MUHAMMED SRANK, RESIDING AT SRANK HOUSE, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.
6. **SHAUKATH ALI T. AGED 27 YEARS**
S/O. ABDUL RAHIMAN HAJI, THAYAL HOUSE, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.
7. **SHARIF P., AGED 32 YEARS**
S/O. RAMBAL, RESIDING AT KUNNOTH HOUSE, MUKKOD
CHITTARI VILLAGE, KASARAGOD DISTRICT.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S)/COMPLAINANT, STATE AND DE FACTO COMPLAINANT:

1. **STATION HOUSE OFFICER**
HOSDURG POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
 - 3. ABDUL LATHEEF,
S/O. KUNHAMMED, RESIDING AT MALIKAYIL HOUSE
JILANI NAGAR, MUKKOD IN PALLIKKARA VILLAGE
HOSDURG TALUK, KASARAGOD- 671 316.**
 - 4. C.M. SHABEEB,
S/O. MUSTHAFA, RESIDING AT SHABEEN MANZIL
MUKKOD JUNCTION, CHITTARI VILLAGE, HOSDURG TALUK
KASARAGOD - 671 316.**
 - 5. MUHAMMED SHEREEF,
S/O. MALIKAYIL ABBAS, RESIDING AT MALIKAYIL HOUSE
JILANI NAGAR, MUKKOD IN PALLIKKARA VILLAGE
HOSDURG TALUK, KASARAGOD- 671 316.**
 - 6. MUHAMMED THAYAL,
S/O. THAYA KUNHAMMED HAJI, RESIDING AT THAYAL HOUSE
MUKKOD, PALLIKKARA VILLAGE, HOSDURG TALUK
KASARAGOD - 671 316.**
- R3-6 BY ADV. SMT.MARY RANZOM LOUIZ
R1-2 BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S ANNEXURES:

A1: THE TRUE COPY OF THE FIR NO.1462/2011 ON THE FILE OF HOSDURG POLICE STATION, KASARAGOD

A2: THE TRUE COPY OF THE STATEMENT GIVEN BY ONE OF THE DE FACTO COMPLAINANT C.M. SHABEEB (4TH RESPONDENT /CW1)

A3: THE TRUE COPY OF THE STATEMENT GIVEN BY ANOTHER DE-FACTO COMPLAINANT ABDUL LATHEEF M. (3RD RESPONDENT / CW2)

A4: THE TRUE COPY OF THE FINAL REPORT FILED BEFORE THE HON'BLE JUDICIAL 1ST CLASS MAGISTRATE NO.1

A5: THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT

A6: THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT

A7: THE AFFIDAVIT SWORN BY THE 5TH RESPONDENT

A8: THE AFFIDAVIT SWORN BY THE 6TH RESPONDENT

RESPONDNETS ANNEXURES: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 6911 of 2014

Dated this the 8th day of January, 2015.

O R D E R

The petitioners herein are the 7 accused in S.C No.52/2013 of the court of Session, Kasaragod, now pending before the learned Additional Sessions Judge III, Kasaragod. Crime in this case was registered under Sections 143, 147, 148, 324, 308, 326 r/w 149 IPC on the complaint of one Abdu Latheef, that these petitioners assaulted him and his friends Shabeeb, Muhammed Shereef and Muhammed Thayal, and inflicted injuries on their body with weapons with the knowledge of consequence that the injuries may cause death. The petitioners now seek orders quashing the prosecution on the ground that they and the injured persons including the first informant have come to terms amicably out of court, and continuance of prosecution will not serve any purpose. The first informant Abdul Latheef is the third respondent in this proceeding, and the other injured persons are the respondents 4 to 6. All these respondents have filed affidavit to the effect that they have settled the whole dispute with the accused, and they have no grievance or complaint. Of course, one of the injured persons had

sustained grievous hurt, and there is rightly FIR under Section 326 IPC, but as regards Section 308 IPC, I find that the said Section was incorporated by the police on the basis of some hypothetical statement. Anyway, the parties have settled the whole dispute. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non compoundable offences, the High court can quash prosecution, if the parties have really settled the dispute amicably, or continuance of prosecution will not serve any purpose. Here I find a situation of real and genuine settlement between the parties. It is quiet definite that none of the witnesses will support the prosecution, if the case goes to trial, in a circumstance of amicable settlement made out of court. Continuance of prosecution will be a sheer waste of time in such a situation.

In the result, this petition is allowed. The prosecution against the petitioners in S.C No.52/2013 before the learned Additional Sessions Judge III, Kasaragod will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

P.UBAID,
JUDGE